

That the Mayor be authorized to sign an Agreement between the City of El Paso and Comcorp to work in conjunction with the El Paso Police Department to develop short television presentations regarding different traffic laws to be called rules of the road spots and to permit Comcorp to acquire corporate sponsors or sell advertising in connection with the presentation of the rules of the road spots on its television station, KTSM.

[Police Department, Interim DC Cross, (915) 564-7039]

Back up memo:

March 25, 2004

To: City Clerks Office

From: Interim DC Cross

Subject: City Council Agenda – March 30, 2004

The following is an explanation for the items on the City Council Agenda regarding the Police Department:

The Police Department will provide the services of a uniformed police officer for the taping of the rules of the road spots at dates, times and locations to be mutually agreed upon.

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign an Agreement between the City of El Paso and Comcorp to work in conjunction with the El Paso Police Department to develop short television presentations regarding different traffic laws to be called rules of the road spots and to permit Comcorp to acquire corporate sponsors or sell advertising in connection with the presentation of the rules of the road spots on its television station, KTSM.

ADOPTED this 30th day of March 2004.

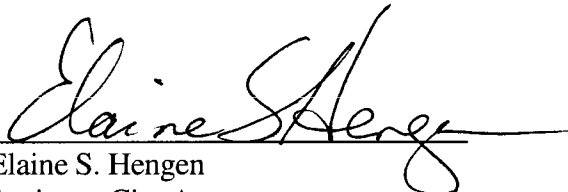
CITY OF EL PASO

Joe Wardy
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Elaine S. Hengen
Assistant City Attorney

STATE OF TEXAS

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COUNTY OF EL PASO

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AGREEMENT AND LICENSE

THIS AGREEMENT is made and entered into this 30th day of March 2004, by and between the CITY OF EL PASO, a municipal corporation, hereinafter called "City", and Comcorp, hereinafter called "KTSM"; and

WHEREAS, KTSM wishes to work in conjunction with the El Paso Police Department to develop short television presentations regarding different traffic laws, hereinafter called "rules of the road spots"; and

WHEREAS, the City believes that it is in the best interest of the public to promote awareness of traffic laws, and that this constitutes such a significant benefit and public purpose to warrant the expenditure of public funds;

NOW, THEREFORE, in consideration for the mutual promises contained herein, the City and KTSM hereby agree as follows:

1. GENERAL TERMS AND CONDITIONS

A. Duties of City. City agrees that to the extent it is practical and operationally feasible, the Police Department will provide the services of a uniformed police officer for the taping of the rules of the road spots at dates, times and locations to be mutually agreed upon.

B. Duties of KTSM. KTSM agrees to the following:

(1) To portray the City and its Police Department in a most positive light and in a manner intended to improve community relations; and

(2) KTSM, its agents, employees, volunteers and contractors unconditionally agree not to impose on any person's right of privacy or to film or videotape in or on private property at any time without the express written, verbal or videotaped consent of the person or property owner. KTSM agrees to obtain a written or videotaped release of all filmed or videotaped persons authorizing both the uses to be made by KTSM and the City prior to airing any footage.

C. Photographs and Recordings.

(1) KTSM shall be the sole owner and the copyright proprietor of any material created hereunder; provided, however, KTSM will not use any filmed, videotaped or digitized recordings of the police officers for any profit-making or similar commercial purpose except as noted below in paragraph C (5), including but not limited to using the recordings in connection with the presentation of a news story or as file footage, and it will not sell or

transfer the ownership of the film, videotape or recordings or the ownership of the copyright without the prior written consent of the City of El Paso.

(2) KTSM and its agents and contractors shall have the right to film, videotape and record any or all appearances or performances of City and its Police Department under this agreement, to reproduce such recordings or any part of them by any method, and to distribute and air these recordings domestically and internationally perpetually throughout the world, or refrain therefrom, within the parameters for the use of the film and videotape as set forth in this agreement.

(3) KTSM agrees to provide City with a videotape copy of the footage filmed or videotaped under this Agreement, and KTSM authorizes the City to use any and all of the videotape as part of any internal training programs and in any public service educational programs developed and utilized by the El Paso Police Department.

(4) The City shall retain exclusive editorial rights and approval on any material filmed or videotaped concerning the City and its Police Department. KTSM agrees not to use any filmed or videotaped material in the rules of the road spots that the City through its Chief of Police or his designees has deemed to be detrimental.

(5) KTSM shall have the right to acquire corporate sponsors and/or sell advertising in connection with the presentation of the rules of the road spots on its television station. The presentation of the advertising or sponsorship shall not be made in any manner or in such a fashion as to imply that the City or El Paso or its Police Department, support, approve or recommend the corporate sponsors. The Chief of Police or his designees shall approve of all language, video, graphics, wording or other expressions that are used to tie or announce the corporate sponsor and the advertising to the rules of the road spots prior to the airing of all spots.

D. Termination. This agreement shall terminate on March 31, 2005 and may also be terminated at any time by either the City or KTSM by sending 10 days written notice to the other party.

E. Indemnification. **KTSM shall protect, defend and hold the City, its officials, agents, volunteers and employees completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including, but not limited to attorney fees, court costs, and expert fees), of any nature whatsoever arising out of or incident to the negligent acts or omissions of KTSM's officers, agents, employees, contractors, subcontractors, licensees, or invitees, regardless of where the injury, death or damage may occur. KTSM shall be held responsible for obtaining appropriate permission to videotape and broadcast the images**

of any person or property. KTSM shall be held responsible for obtaining appropriate permission to use and incorporate copyrighted materials into their program. KTSM shall indemnify, defend and hold the City harmless from any claims or causes of action which might arise from use of any such material.

F. Designated Representatives. The City's representative for purposes of coordinating the filming of the rules of the road spots and the use of the Premises shall be the Police Department's Public Information Officer. KTSM's representative for purposes of coordinating filming of the rules of the road spots and the use of the Premises shall be designated in writing by KTSM and provided to the Police Department's Public Information Officer.

G. Effective Dates. This Agreement shall be effective as of the date that both parties execute this Agreement. All proposals, negotiations, notices and representation with reference to matters covered by this Agreement are merged herein, and no amendment or modification thereof shall be valid unless in writing and signed by both parties. This Agreement shall terminate pursuant to the terms found in paragraph 1.D above.

2. PREMISES.

A. Premises. The City hereby grants KTSM a license to use City property and equipment, hereinafter referred to as the "Premises", in connection with the production of scenes for the rules of the road spots. Except for the aforementioned grant of a license, nothing herein shall grant any real property interest to KTSM. This License is granted only for the term stated and nothing herein shall be construed to vest any continuing right in KTSM. Further, this agreement shall not convey any right or permission for an exclusive use of any City streets nor any authorization to use City streets and sidewalks in any manner that is inconsistent with the law.

B. Term. The dates and times for use of the Premises shall be mutually agreed upon by the Parties hereto through their designated representatives. This Agreement maybe terminated at anytime pursuant to paragraph 1.D. above.

C. Consideration. As consideration for the use of the Premises outlined above, KTSM will furnish a copy of the film or videotape to the City as set forth above in paragraph 1 C (3) above.

3. Notices. Any notices required under this agreement shall be sent to the following addresses:

CITY: City of El Paso
Attn: Mayor
#2 Civic Center Plaza
El Paso, Texas 79901

Copy to: Chief of Police
911 N. Raynor St.
El Paso, Texas 79903

KTSM:

KTSM
Attn: Cynthia Callery
801 N. Oregon
El Paso, Texas 79902

or to such other addresses as the parties may designate to each other in writing from time to time.

4. Governing Law and Venue. The laws of the State of Texas shall govern the validity, performances and enforcement of this Agreement. This Agreement shall be enforceable in El Paso, Texas and exclusive venue shall be in El Paso County, Texas.

5. Binding Agreement. The individuals signing this Agreement acknowledge that they are authorized to do so and said individuals further warrant that they are authorized to commit and bind the City and KTSM to the terms and conditions of this Agreement.

WITNESS the following signatures and seals:

Dated this 30th day of March 2004.

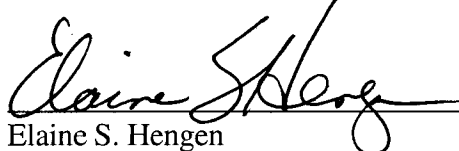
THE CITY OF EL PASO

Joe Wardy
Mayor

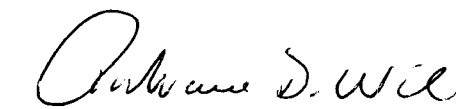
ATTEST:

Richarda Duffy Momsen
City Clerk

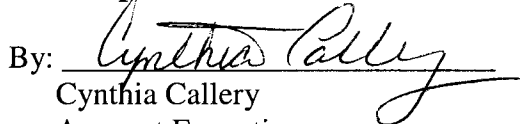
APPROVED AS TO FORM:


Elaine S. Hengen
Assistant City Attorney

APPROVED AS TO CONTENT:


Richard Wiles
Interim Chief of Police

Comcorp (KTSM)

By: 
Cynthia Callery
Account Executive

Dated this 23 day of March, 2004